
AGENCY OVERVIEW**408 Public Service Commission**

Date: 01/13/2011**Time:** 11:00:51**Statutory Authority**

ND Constitution Article V, Sections 2 and 5; Article XII, Section 13; North Dakota Century Code Chapters 19-01, 24-01, 24-09, 36-05, 38-14.1, 38-14.2, 38-18, 40-05, 40-33, 40-34, 51-05.1, 54-06, 54-44.8, 57-61; Title 49 (except Chapter 49-16), Title 60 (except Chapter 60-01) and Title 64.

Agency Description

The Public Service Commission is a constitutional agency with varying degrees of statutory authority over electric and gas utilities, telecommunication companies, energy generation plant and transmission line siting, railroads, grain elevators, auctioneers and auction clerks, weighing and measuring devices, pipeline safety and coal mine reclamation. The Commission is comprised of three Commissioners who are elected on a state-wide basis to staggered six year terms.

Agency Mission Statement

The Public Service Commission fulfills its statutory mandates by protecting the public interest and regulating utilities, mining companies, and licensees in a fair, efficient, responsive, and cooperative manner. Regulatory initiatives assure that:

- Utility customers receive reliable and safe service at reasonable and just rates.
- Mined coal lands are reclaimed to provide a safe and productive environment now and in the future.
- License and permit holders and operators of commercial weighing and measuring devices operate in a safe and fair manner.

Public Utilities Division

- Establish and maintain a fair, reasonable, safe, efficient and workable framework in which the transition from monopoly utility services to competitive utility services can evolve.
- Improve information flow to consumers and the public generally for the purpose of enhancing the public's understanding of the evolving industry, the Commission's role, and the consumers' rights and responsibilities.
- Continue to protect ND's environment by maintaining a high level of oversight of energy conversion and transmission facility siting and utility safety issues.

Testing & Safety Division

- Promote enhanced public safety of ND's gas and LPG intrastate distribution/transmission systems through compliance with federal/state gas pipeline safety laws and rules.
- Promote low compliance costs by maintaining industry education through interaction with consumers, commercial weighing and measuring device operators, and gas pipeline operators.
- Promote professionalism and accuracy in ND's Weights and Measures regulatory and service sectors and gas pipeline distribution and transmission sectors by providing a work environment favorable to ongoing professional education.
- Promote fairness in the marketplace by verifying the accuracy of commercial scales and meters used in ND.

Licensing Division

- Ensure that regulated entities comply with statutes and rules governing their operations.
- Ensure that the public receives fair and prompt service on matters involving jurisdictions handled by the Licensing Division.
- Regulate industry within a framework that minimizes negative economic impacts on regulated entities.

Reclamation Division

- Carry out the mine permitting, inspection and enforcement, and bond release activities in a manner that provides the required protection to the environment and property owners while being responsive to the needs of the mining industry.
- Evaluate and adjust the regulatory program on an ongoing basis to achieve the optimum balance among environmental protection, least-cost industry operations, and landowner pursuit of agricultural activities.

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- Explore the scientific, engineering and statistical underpinnings of the regulatory program and make every effort to see that improvements resulting from that exploration are made at both the state and federal level.
- Promote public awareness of the regulatory program through increased contact with relevant organizations and potentially affected landowners.
- Maintain maximum staff effectiveness by providing training and other opportunities for professional growth.

Abandoned Mine Lands Division

- Reclaim abandoned mine land sites found on the ND AML Inventory.
- Reclaim hazardous abandoned mine land sites not on the ND AML Inventory but discovered through exploratory drilling or public information.
- Reclaim emergency sites as the highest work priority. Develop emergency reaction plans that will reduce the time taken to eliminate the eminent hazard.

Legal Division

- Advise and counsel the Commission in all matters directly or indirectly affecting the Commission or Commission staff.
- Assist in the preparation and presentation of staff and Commission positions on matters of regulatory concern in Commission dockets and before state and federal agencies.
- Represent the Commission in all proceedings before state and federal courts.
- Oversee and coordinate the agency's legislative and rulemaking activities.
- Fulfill staff functions for various divisions as situations warrant and time allows.
- Regulate railroads as provided for by state law and represent ND's railroad shipping interests in federal proceedings and in direct negotiations with the rail carriers that serve the state.

Administrative Division/Executive Secretary

- Administer the agency's day-to-day activities including budgeting, accounting, human resources and agency administration, grant administration, and procurement.
- Provide accurate and usable financial information to commissioners and division directors.
- Provide necessary accounting and reporting to OMB, Legislative Council, ITD, federal government, utility industry, payroll department, etc.

Technology Division

- Provide an efficient and effective technology environment.
- Provide equipment necessary for the deployment of commission technology solutions.

Agency Performance Measures

Not Available.

Major Accomplishments

1. Processed 1,843 cases, approximately two-thirds of which were closed within 60 days.
2. Secured \$766,350 in American Recovery and Reinvestment Act (ARRA) funds to hire full-time positions to assist the public utilities division.
3. Processed electric rate increase applications for both Otter Tail Power Company and Montana-Dakota Utilities Company.
4. Began tracking renewable and recycled energy production to comply with North Dakota's energy renewable objective of 10 percent by 2015.
5. Approved the recovery of Otter Tail Power Company's wind farms.
6. Permitted an additional 5,438 acres for surface coal mining and reclamation operations during the 2007-09 biennium.
7. Granted eight final bond release applications for 3,423 acres.
8. Located and filled underground mine voids beneath roads and near homes east of Williston.
9. Backfilled and eliminated steep surface mine highwalls south of Columbus and west of Hazen.
10. Filled dangerous sink holes from pre-reclamation law mines at numerous locations in western North Dakota.
11. Tested 22,209 weighing and measuring devices.

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12. Completed 232 grain warehouse and 33 roving grain buyer inspections, and 76 capacity calculation visits for new construction and added storage sites.
13. Approved 280 grain warehouse capacity increase requests and 152 grain warehouse capacity decrease requests.
14. Granted 44 grain warehouse or facility-based grain buyer requests to discontinue business.
15. Issued 43 new grain warehouse or facility-based grain buyer licenses.
16. Renewed approximately 800 grain warehouse or facility-based grain buyer licenses and approximately 140 roving grain buyer licenses.
17. Issued 794 auctioneer licenses and 454 auction clerk and bank clerk licenses.
18. Involved in five grain warehouse or grain buyer insolvencies.
19. Reached the six million dollar cap in the credit-sale contract indemnity fund.
20. Administered Qwest's Performance Assurance Plan fund for collecting funds from the Qwest Corp. when it fails to meet certain performance standards. The funds are then used to conduct audits of the reported results.
21. Continued participation in a new regional regulatory organization known as the Organization of Midwest States (OMS) Independent System Operator States.
22. Worked through the OMS with 14 other Midwestern state regulatory agencies and other stakeholders to develop a regional cost allocation proposal for new electric transmission projects that is now pending federal approval before the Federal Energy Regulatory Commission.
23. Continued participation with regional Governors and regulatory agency members of the Upper Midwest Transmission Development Initiative regarding electric transmission development issues within a five state local region consisting of ND, SD, MN, WI and IA.

Future Critical Issues

North Dakota is blessed with large coal reserves and plenty of wind for generating electricity. Both the federal government and the state of North Dakota offer incentives for the deployment of wind turbines within the state's border. The incentives for wind development have worked quite well resulting in the addition of 1,200 MW's of wind capacity in recent years. Because North Dakota's total electric generation capacity for all resources totals about 6,200 MW's, the significant wind additions are beginning to impact prices in the region as well as the operation of existing coal generation facilities. Because wind itself is free, the variable cost of running a wind turbine is almost nothing. In addition, the federal government's incentive plan pays 2.1 cents a kWh produced during the first 10 years of operations. Therefore, wind facilities can bid into the electric market at very low prices, even negative prices, when the wind blows. As a result, coal plants built to run 24/7 have to throttle back to accommodate the low cost wind. Wind by its nature is intermittent thereby requiring duplicative generation facilities to cover the load when the wind does not blow. Duplication of facilities results in a higher cost of service and therefore higher electric rates to consumers. The extent coal plants are damaged when ran as a Governor for wind generation has not been determined. The continued expansion of wind generation facilities in North Dakota will increase operational concerns and require a greater level of cooperation amongst the wind and coal operators while waiting for the construction of new electric transmission facilities to increase the ability to export power to other states and regions.

The Public Service Commission continues to operate with the smallest public utilities staff in the country. As a result, large projects such as siting a new power plant could seriously impact the Commission's ability to deal with the current workload within the public utilities division. Numerous smaller siting projects have already had an impact on the division. Consequently, the Commission must outsource a larger part of its siting activity. The 2009 Legislature decreased the jurisdictional threshold for siting new energy conversion facilities from 100 MW to 60 MW, which is expected to increase the amount of siting applications for new wind farms. During the 2007-2009 biennium, the Commission processed all or portions of approximately 47 siting applications representing several billion dollars of new energy infrastructure.

As the agency continues down the path of doing more work with fewer resources, progress towards a paperless office is required. Included in a paperless office is the idea of electronic case administration that is available through its website to not only employees but the public, including industries regulated by the PSC and other stakeholders. The paperless office also envisions automating many processes currently requiring a good deal of manual input.

The Commission has an aging workforce and could lose much of its institutional knowledge over the next 10 years. This process has already begun and the Commission is dealing with transition issues. The continued success of the Commission will be largely dependent upon its ability to hire, train and retain highly skilled employees by staying competitive with market pay.

REQUEST SUMMARY

408 Public Service Commission

Bill#: SB2008

Date: 01/13/2011

Biennium: 2011-2013

Time: 11:00:51

Description	Expenditures 2007-2009 Biennium	Present Budget 2009-2011	Budget Request Change	Requested Budget 2011-2013 Biennium	Optional Budget Request
By Major Program					
Administration	2,250,888	2,718,934	161,409	2,880,343	0
Testing, Licensing and Certification	1,567,175	2,776,941	(106,703)	2,670,238	(173,088)
Public Utilities	1,036,362	2,055,716	(789,330)	1,266,386	658,217
Reclamation Programs	5,542,273	9,553,166	1,665,365	11,218,531	0
Total Major Program	10,396,698	17,104,757	930,741	18,035,498	485,129
By Line Item					
Salaries and Wages	5,504,289	6,855,961	237,965	7,093,926	(173,088)
Operating Expenses	1,500,344	1,944,946	27,626	1,972,572	0
Capital Assets	68,174	127,500	(74,500)	53,000	0
Grants	8,000	10,000	6,000	16,000	0
AML Contractual Services	3,315,891	6,500,000	1,500,000	8,000,000	0
Rail Rate Complaint Case	0	900,000	0	900,000	0
Federal Stimulus Funds 2009	0	766,350	(766,350)	0	658,217
Total Line Items	10,396,698	17,104,757	930,741	18,035,498	485,129
By Funding Source					
General Fund	4,467,920	5,676,165	93,389	5,769,554	(173,088)
Federal Funds	5,782,189	10,403,592	837,352	11,240,944	658,217
Special Funds	146,589	1,025,000	0	1,025,000	0
Total Funding Source	10,396,698	17,104,757	930,741	18,035,498	485,129
Total FTE	41.00	43.00	0.00	43.00	0.00

REQUEST DETAIL

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Description	Expenditures 2007-2009 Biennium	Present Budget 2009-2011	Budget Request Change	Requested Budget 2011-2013 Biennium	Optional Budget Request
Salaries and Wages					
Salaries - Permanent	4,128,949	5,124,143	(2,075)	5,122,068	0
Temporary Salaries	25,930	15,000	121,000	136,000	0
Overtime	14,437	5,000	71,500	76,500	0
Fringe Benefits	1,334,973	1,711,818	47,540	1,759,358	0
Reduction In Salary Budget	0	0	0	0	(173,088)
Total	5,504,289	6,855,961	237,965	7,093,926	(173,088)
Salaries and Wages					
General Fund	3,398,064	4,350,597	77,483	4,428,080	(173,088)
Federal Funds	2,106,225	2,505,364	160,482	2,665,846	0
Special Funds	0	0	0	0	0
Total	5,504,289	6,855,961	237,965	7,093,926	(173,088)
Operating Expenses					
Travel	543,861	769,462	22,726	792,188	0
Supplies - IT Software	49,217	55,409	(900)	54,509	0
Supply/Material-Professional	10,446	32,311	(200)	32,111	0
Food and Clothing	3,405	3,850	500	4,350	0
Bldg, Ground, Maintenance	3,074	3,629	0	3,629	0
Miscellaneous Supplies	8,473	10,530	(1,400)	9,130	0
Office Supplies	28,764	26,244	900	27,144	0
Postage	18,703	24,118	(1,600)	22,518	0
Printing	7,865	16,600	700	17,300	0
IT Equip Under \$5,000	105,704	93,905	0	93,905	0
Other Equip Under \$5,000	11,997	13,181	0	13,181	0
Office Equip & Furn Supplies	7,258	15,918	0	15,918	0
Insurance	9,071	10,859	(100)	10,759	0
Rentals/Leases-Equip & Other	0	1,000	0	1,000	0
Rentals/Leases - Bldg/Land	75,888	84,000	(1,200)	82,800	0
Repairs	48,842	52,514	(18,800)	33,714	0
IT - Data Processing	111,187	147,150	0	147,150	0
IT - Communications	47,484	64,886	0	64,886	0
IT Contractual Svcs and Rprs	62,677	82,100	10,800	92,900	0
Professional Development	76,043	116,846	(1,300)	115,546	0
Operating Fees and Services	116,811	117,872	15,000	132,872	0
Fees - Professional Services	153,056	202,562	2,500	205,062	0
Medical, Dental and Optical	518	0	0	0	0
Total	1,500,344	1,944,946	27,626	1,972,572	0

REQUEST DETAIL

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Description	Expenditures 2007-2009 Biennium	Present Budget 2009-2011	Budget Request Change	Requested Budget 2011-2013 Biennium	Optional Budget Request
Operating Expenses					
General Fund	1,003,510	1,273,068	19,006	1,292,074	0
Federal Funds	350,245	546,878	8,620	555,498	0
Special Funds	146,589	125,000	0	125,000	0
Total	1,500,344	1,944,946	27,626	1,972,572	0
Capital Assets					
Equipment Over \$5000	15,714	85,000	(85,000)	0	0
IT Equip/Sftware Over \$5000	52,460	42,500	10,500	53,000	0
Total	68,174	127,500	(74,500)	53,000	0
Capital Assets					
General Fund	66,346	52,500	(3,100)	49,400	0
Federal Funds	1,828	75,000	(71,400)	3,600	0
Special Funds	0	0	0	0	0
Total	68,174	127,500	(74,500)	53,000	0
Grants					
Transfers Out	8,000	10,000	6,000	16,000	0
Total	8,000	10,000	6,000	16,000	0
Grants					
General Fund	0	0	0	0	0
Federal Funds	8,000	10,000	6,000	16,000	0
Special Funds	0	0	0	0	0
Total	8,000	10,000	6,000	16,000	0
AML Contractual Services					
Fees - Professional Services	3,315,891	6,500,000	1,500,000	8,000,000	0
Total	3,315,891	6,500,000	1,500,000	8,000,000	0
AML Contractual Services					
General Fund	0	0	0	0	0
Federal Funds	3,315,891	6,500,000	1,500,000	8,000,000	0
Special Funds	0	0	0	0	0
Total	3,315,891	6,500,000	1,500,000	8,000,000	0
Rail Rate Complaint Case					
Fees - Professional Services	0	900,000	0	900,000	0

REQUEST DETAIL

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Description	Expenditures 2007-2009 Biennium	Present Budget 2009-2011	Budget Request Change	Requested Budget 2011-2013 Biennium	Optional Budget Request
Total	0	900,000	0	900,000	0
Rail Rate Complaint Case					
General Fund	0	0	0	0	0
Federal Funds	0	0	0	0	0
Special Funds	0	900,000	0	900,000	0
Total	0	900,000	0	900,000	0
Federal Stimulus Funds 2009					
Temporary Salaries	0	328,128	(328,128)	0	362,176
Fringe Benefits	0	115,476	(115,476)	0	56,041
Travel	0	35,000	(35,000)	0	75,000
Supplies - IT Software	0	9,396	(9,396)	0	10,000
IT Equip Under \$5,000	0	14,000	(14,000)	0	10,000
Rentals/Leases - Bldg/Land	0	56,000	(56,000)	0	0
Professional Development	0	50,000	(50,000)	0	60,000
Operating Fees and Services	0	158,350	(158,350)	0	85,000
Total	0	766,350	(766,350)	0	658,217
Federal Stimulus Funds 2009					
General Fund	0	0	0	0	0
Federal Funds	0	766,350	(766,350)	0	658,217
Special Funds	0	0	0	0	0
Total	0	766,350	(766,350)	0	658,217
Funding Sources					
General Fund	4,467,920	5,676,165	93,389	5,769,554	(173,088)
Federal Funds	5,782,189	10,403,592	837,352	11,240,944	658,217
Special Funds	146,589	1,025,000	0	1,025,000	0
Total Funding Sources	10,396,698	17,104,757	930,741	18,035,498	485,129

CHANGE PACKAGE SUMMARY

408 Public Service Commission

Biennium: 2011-2013

Bill#: SB2008

Date: 01/13/2011

Time: 11:00:51

Description	Priority	FTE	General Fund	Federal Funds	Special Funds	Total Funds
<u>Base Budget Changes</u>						
One Time Budget Changes						
A-E 1 Remove ARRA Budget Authority		0.00	0	(322,746)	0	(322,746)
Total One Time Budget Changes		0.00	0	(322,746)	0	(322,746)
Ongoing Budget Changes						
A-A 1 Operating Expense Changes		0.00	19,006	8,620	0	27,626
A-A 2 Increase AML Construction Funding		0.00	0	1,500,000	0	1,500,000
A-A 3 ND Geological Survey Pass Through Funds		0.00	0	6,000	0	6,000
A-A 4 IT Equipment over \$5,000		0.00	53,000	0	0	53,000
A-F 1 Remove Capital Asset Appropriations		0.00	(56,100)	(71,400)	0	(127,500)
Base Payroll Change		0.00	77,483	(283,122)	0	(205,639)
Total Ongoing Budget Changes		0.00	93,389	1,160,098	0	1,253,487
Total Base Budget Changes		0.00	93,389	837,352	0	930,741
<u>Optional Budget Changes</u>						
One Time Optional Changes						
A-D 1 Request for ARRA budget authority	1	0.00	0	658,217	0	658,217
Total One Time Optional Changes		0.00	0	658,217	0	658,217
Total Optional Budget Changes		0.00	0	658,217	0	658,217
<u>Optional Savings Changes</u>						
A-G 1 3% Optional Savings	1	0.00	(173,088)	0	0	(173,088)
Total Optional Savings Changes		0.00	(173,088)	0	0	(173,088)

BUDGET CHANGES NARRATIVE**408 Public Service Commission****Bill#: SB2008****Date:** 01/13/2011**Time:** 11:00:51

Change Group: A	Change Type: A	Change No: 1	Priority: 1
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Operating Expense Changes

Realign the base budget to better reflect projected expenses in each program.

Change Group: A	Change Type: A	Change No: 2	Priority: 2
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Increase AML Construction Funding

To increase federal funding authority for increases in available federal funds for abandoned mine lands reclamation.

Change Group: A	Change Type: A	Change No: 3	Priority: 3
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ND Geological Survey Pass Through Funds

This line item is for authorization to transfer some of the federal funds that the Commission receives from Office of Surface Mining (OSM) to the North Dakota Geological Survey for the federal share of regulating coal exploration activities in the State. The amount of funds to be transferred has increased since more coal exploration activity is expected during the 2011-13 biennium. Some of the increase is also due to higher travel costs to field check drill-hole reclamation and slightly higher salaries for people that administer the coal exploration program.

Change Group: A	Change Type: A	Change No: 4	Priority: 4
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IT Equipment over \$5,000

Standard replacement of IT equipment to include: servers, large format copier/printer, high speed scanners, large format plotter, and tape backup expansion.

Change Group: A	Change Type: D	Change No: 1	Priority: 1
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Request for ARRA budget authority

Salary and Operating Expense request for ARRA grant funds received from the U.S. Department of Energy.

Change Group: A	Change Type: E	Change No: 1	Priority: 1
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Remove ARRA Budget Authority

Remove ARRA budget authority received from the emergency commission.

Change Group: A	Change Type: F	Change No: 1	Priority: 1
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Remove Capital Asset Appropriations

Remove prior biennium capital asset appropriations.

BUDGET CHANGES NARRATIVE**408 Public Service Commission****Bill#: SB2008****Date:** 01/13/2011**Time:** 11:00:51

Change Group: A	Change Type: G	Change No: 1	Priority: 1
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3% Optional Savings

In the event that a 3% reduced budget is implemented, the Commission would reduce the weights and measures program from four full-time employees to two, and change the program activities and goals from testing and enforcement to enforcement-only. All weighing and measuring devices would be tested by third-party registered service persons. The Commission would continue monitoring to ensure that all commercial weighing and measuring devices used in North Dakota and all registered service persons are in compliance with State law and Commission rules.

Change Group: R	Change Type: B	Change No: 1	Priority:
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ARRA Carryover Authority

Provides \$658,217 in carryover federal ARRA funding for the Public Utilities Division to manage the increase in electricity-related regulatory activity. This includes funding for 3.00 temporary FTE, training costs, and other operating expenses.